S.B.CIVIL WRIT PETITION NO.1264/2007

Santosh Gaur

Versus

University of Bikaner & Anr.

Date of Order :: 29th August, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.S.Bhati, for the petitioner.
Mr. D.D.Chitlangi]
Mr. V.K.Agarwal] for the respondents.

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A direction is sought by the petitioner for the respondent University to give her admission in LL.B. Final Year Course and also to allow her to appear in one paper of Ist Year LL.B. Course in which she was declared failed.

In brief, facts of the case are that the petitioner appeared in LL.B. Ist Year Examinations-2005 wherein she failed to qualify four papers those are Paper-Ist, Paper-IIIrd, Paper-Vth and Paper VIth. In papers Vth and VIth, the petitioner was absent and in papers Ist and IIIrd she secured Zero and 20 marks respectively as shown in statement of marks Anx.1. The respondent University permitted the petitioner to qualify the papers above mentioned by appearing in supplementary examination and she was also permitted to undergo the studies relating to LL.B. IInd year.

The petitioner appeared in LL.B. IInd year examination-2006 except for the paper of Taxation, thus, she was permitted to face the examination aforesaid by availing supplementary. She also failed to qualify the paper relating to Contract Ist (General Principles) LL.B. Ist year examination, therefore, her entire examination of LL.B. IInd year cancelled and she was also declared failed in LL.B. Ist year examination.

The contention of counsel for the petitioner is that the petitioner failed only in one subject, therefore, she can very well be allowed to continue to study in LL.B. IIIrd year to qualify one paper of LL.B. Ist year and also one paper of IInd year.

A reply to the writ petition has been filed on behalf of the respondent University stating therein that the Ordinance 253-C of the Rajasthan University Ordinance as adopted by the University of Bikaner does not permit for the sanction as sought by the petitioner. Ordinance 253-C referred above reads as follows:-

> "O.253-C.
> (i)A candidate who is declared eligible for appearing at the Supplementary Examination at the LL.B. First Year (P)(A) class will be allowed provisional admission to the LL.B. (P)(A) Second Year Class. In the event of

> his failing at the said Supplementary Examination, his provisional admission to LL.B. II Year (P)(A) class will automatically stand cancelled and such candidate shall have to appear in the LL.B. First Year examination as an ex-student in all the papers prescribed for the course."

From plain reading of ordinance 253-C it is apparent that a candidate who is declared eligible for appearing at the supplementary examination at LL.B. Ist year, at first year though may be allowed for provisional admission in LL.B. IInd year but if he/she fails to qualify the LL.B. Ist year papers, his/her examination shall stand cancelled automatically. In view of the provisions of ordinance 253-C the examination of the petitioner for LL.B. Ist year stood cancelled and, therefore, no illegality in decision of the respondent university can be seen.

Beside above, the respondents in reply to the writ petition have also pointed out that the petitioner as a matter of fact was found using unfair means in LL.B. Ist year examination-2005 and, therefore, in paper Ist Zero marks were awarded to her and this fact is not disclosed in this petition. The fact with regard to involvement of unfair means in paper Ist has not been denied by the petitioner.

Be that as it may, without entering into the issue with regard to conduct of the petitioner I found

no merit in this petition for writ, accordingly, the same is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.